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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,042	10/07/2003	James Talaric	17-01A	2694

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EXAMINER

MILLS, DANIEL J

ART UNIT PAPER NUMBER

3679

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/681,042	Applicant(s) TALARIC ET AL.	
	Examiner Daniel J. Mills	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 4-8, 17-20 and 29-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9-16 and 21-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/12/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Election/Restriction***

Claims 4-8, 17-20, and 29-34 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), election was made with traverse.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 9-14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders (US 235,300) in view of Rice (US 2,108,927).

Regarding claim 1, Sanders discloses a joint structure for joining limb members of a mannequin comprising a ball portion (e) formed at the-joining end of a first limb member (a), the ball portion having a slit (A) formed therein, a socket portion (d) formed at the joining end of a second limb member (b), the ball portion being at least partially inserted into the socket portion, the socket portion being sized and shaped to fit the ball portion inserted therein and the interior surface of the socket portion having a tab (B) attached thereto said tab being adapted to be received by the slit and pivotally attached to said first limb member. Sanders fails to disclose a friction-producing assembly fixture recessed within the first limb member and in contact with said tab.

Rice teaches the use of a friction-producing assembly fixture recessed within the first limb member and in contact with said tab (see Figure 7) which comprises an open-ended chamber (into which 20 fits) extending into the first member from a slit (12A), a reversibly-compressible material (the spring) positioned at the closed end of said chamber, and a bearing (20) positioned between the reversibly-compressible material and the tab for the purpose of assisting in the retention of the adjustment of the leg sections (column 2 lines 32-35). Accordingly, it would have been obvious to one skilled in the art at the time of applicant's invention, to modify the arrangement of Sanders to include a friction-producing assembly fixture recessed within the first limb member and in contact with said tab which comprises an open-ended chamber extending into the first member from a slit, a reversibly-compressible material positioned at the closed end of said chamber, and a bearing positioned between the reversibly-compressible material and the tab, for the purpose of assisting in the retention of the adjustment of the leg sections as taught by Rice.

Regarding claim 2, Sanders in view of Rice results in a joint structure wherein the tab is fixedly attached to the second limb member.

Regarding claim 3, Sanders in view of Rice results in a joint structure wherein the tab is molded as one unit with the second limb member.

Regarding claim 9, Sanders in view of Rice results in a joint structure wherein the edge of said socket portion encloses the ball portion inserted therein around the periphery of said edge (this is shown in Figure 1 with such edges being at h and g).

Regarding claim 10, Sanders in view of Rice results in a joint structure wherein the reversibly-compressible material is a spring.

Regarding claim 11, Sanders in view of Rice results in a joint structure wherein the tab is attached to the first limb member by means of a pivot pin extending through said tab and at least partly through said first limb member.

Regarding claim 12, Sanders in view of Rice results in a joint structure which forms a joint selected from the group consisting of a neck, a shoulder, an elbow, a hip, a knee, and an ankle (a knee joint is clearly shown).

Regarding claim 13, Rice teaches the use of a joint of this type in a mannequin for the purpose of allowing the mannequin to be positioned. Accordingly, it would have been obvious to one of ordinary skill in the art at the time of applicants' invention, to use this joint in a mannequin as taught by Rice for the purpose of allowing the mannequin to be positioned.

Regarding claim 14, Sanders in view of Rice results in a joint structure for joining limb members of a mannequin wherein the tab effectively fills the slit (this is shown in any of the Figures).

Claims 15, 16, 21-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders (US 235,300) in view of Rice (US 2,108,927) and Harris (US 3,383,962).

Regarding claim 15, Sanders discloses a joint structure for joining limb members of a mannequin comprising a ball portion (e) formed at the-joining end of a first limb member (a), the ball portion having a slit (A) formed therein, a socket portion (d) formed

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at the joining end of a second limb member (b), the ball portion being at least partially inserted into the socket portion, the socket portion being sized and shaped to fit the ball portion inserted therein and the interior surface of the socket portion having a tab (B) attached thereto said tab being adapted to be received by the slit and pivotally attached to said first limb member. Sanders fails to disclose a friction-producing assembly fixture recessed within the first limb member and in contact with said tab which comprises an open-ended chamber extending into the first member from a slit, a reversibly-compressible material positioned at the closed end of said chamber, and a bearing positioned between the reversibly-compressible material and the tab.

Rice teaches the use of a friction-producing assembly fixture recessed within the first limb member and in contact with said tab (see Figure 7) which comprises an open-ended chamber extending into the first member from a slit, a reversibly-compressible material positioned at the closed end of said chamber, and a bearing positioned between the reversibly-compressible material and the tab for the purpose of assisting in the retention of the adjustment of the leg sections. Accordingly, it would have been obvious to one skilled in the art at the time of applicant's invention, to modify the arrangement of Sanders to include a friction-producing assembly fixture recessed within the first limb member and in contact with said tab which comprises an open-ended chamber extending into the first member from a slit, a reversibly-compressible material positioned at the closed end of said chamber, and a bearing positioned between the reversibly-compressible material and the tab, for the purpose of assisting in the retention of the adjustment of the leg sections as taught by Rice.

Sanders fails to disclose a tab having one or more surface depressions.

Harris teaches the use of a tab (18) having one or more surface depressions (24), for the purpose of allowing detent engagement to retain a selected positions of the limb members (11 and 17). Accordingly, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the arrangement of Rice to include surface depressions in the tab, for the purpose of retaining selected positions of the limb members as taught by Harris.

Regarding claim 16, Sanders in view of Rice and Harris results in a joint structure wherein the tab is molded as one unit with the second limb member.

Regarding claim 21, Sanders in view of Rice and Harris results in a joint structure wherein the surface depressions are grooves.

Regarding claim 22, Sanders in view of Rice and Harris results in a joint structure for joining limb members of a mannequin wherein the edge of said socket portion encloses the ball portion inserted therein around the periphery of said edge.

Regarding claim 23, Sanders in view of Rice and Harris results in a joint structure for joining limb members of a mannequin wherein the reversibly-compressible material is a spring.

Regarding claim 24, Sanders in view of Rice and Harris results in a joint structure for joining limb members of a mannequin wherein the tab is attached to the first limb member by means of a pivot pin extending through said tab and at least partly through said first limb member.

Regarding claim 25, Rice teaches the use of a joint of this type in a mannequin for the purpose of allowing the mannequin to be positioned. Accordingly, it would have been obvious to one of ordinary skill in the art at the time of applicants' invention, to use this joint in a mannequin as taught by Rice for the purpose of allowing the mannequin to be positioned.

Regarding claim 26, Sanders in view of Rice results a joint structure for joining limb members of a mannequin wherein said joint structure forms a joint selected from the group consisting of a neck, a shoulder, an elbow, a hip, a knee, and an ankle (a knee joint is clearly shown).

Regarding claim 27, Rice in view of Harris discloses a joint structure for joining limb members of a mannequin wherein the tab effectively fills the slit.

Regarding claim 28, Sanders in view of Rice and Harris results in a joint structure wherein the surface depressions are grooves.

Claims 15, 16, 21-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders (US 235,300) in view of Rice (US 2,108,927) and Berman (US 5,800,243).

Regarding claim 15, Sanders discloses a joint structure for joining limb members of a mannequin comprising a ball portion (e) formed at the-joining end of a first limb member (a), the ball portion having a slit (A) formed therein, a socket portion (d) formed at the joining end of a second limb member (b), the ball portion being at least partially inserted into the socket portion, the socket portion being sized and shaped to fit the ball



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portion inserted therein and the interior surface of the socket portion having a tab (B) attached thereto said tab being adapted to be received by the slit and pivotally attached to said first limb member. Sanders fails to disclose a friction-producing assembly fixture recessed within the first limb member and in contact with said tab which comprises an open-ended chamber extending into the first member from a slit, a reversibly-compressible material positioned at the closed end of said chamber, and a bearing positioned between the reversibly-compressible material and the tab.

Rice teaches the use of a friction-producing assembly fixture recessed within the first limb member and in contact with said tab (see Figure 7) which comprises an open-ended chamber extending into the first member from a slit, a reversibly-compressible material positioned at the closed end of said chamber, and a bearing positioned between the reversibly-compressible material and the tab for the purpose of assisting in the retention of the adjustment of the leg sections. Accordingly, it would have been obvious to one skilled in the art at the time of applicant's invention, to modify the arrangement of Sanders to include a friction-producing assembly fixture recessed within the first limb member and in contact with said tab which comprises an open-ended chamber extending into the first member from a slit, a reversibly-compressible material positioned at the closed end of said chamber, and a bearing positioned between the reversibly-compressible material and the tab, for the purpose of assisting in the retention of the adjustment of the leg sections as taught by Rice.

Sanders fails to disclose a tab having one or more surface depressions.

Berman teaches the use of a tab (29) having one or more surface depressions (41), for the purpose of allowing detent engagement to retain a selected positions of the limb members and produce sound when the limbs are moved. Accordingly, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the arrangement of Rice to include surface depressions in the tab, for the purpose of retaining selected positions of the limb members and produce sound when the limbs are moved as taught by Berman.

Regarding claim 16, Sanders in view of Rice and Berman results in a joint structure wherein the tab is molded as one unit with the second limb member.

Regarding claim 21, Sanders in view of Rice and Berman results in a joint structure wherein the surface depressions are grooves.

Regarding claim 22, Sanders in view of Rice and Berman results in a joint structure for joining limb members of a mannequin wherein the edge of said socket portion encloses the ball portion inserted therein around the periphery of said edge.

Regarding claim 23, Sanders in view of Rice and Berman results in a joint structure for joining limb members of a mannequin wherein the reversibly-compressible material is a spring.

Regarding claim 24, Sanders in view of Rice and Berman results in a joint structure for joining limb members of a mannequin wherein the tab is attached to the first limb member by means of a pivot pin extending through said tab and at least partly through said first limb member.

Regarding claim 25, Rice teaches the use of a joint of this type in a mannequin for the purpose of allowing the mannequin to be positioned. Accordingly, it would have been obvious to one of ordinary skill in the art at the time of applicants' invention, to use this joint in a mannequin as taught by Rice for the purpose of allowing the mannequin to be positioned.

Regarding claim 26, Sanders in view of Rice and Berman results in a joint structure for joining limb members of a mannequin wherein said joint structure forms a joint selected from the group consisting of a neck, a shoulder, an elbow, a hip, a knee, and an ankle (a knee joint is clearly shown).

Regarding claim 27, Sanders in view of Rice and Berman results in a joint structure for joining limb members of a mannequin wherein the tab effectively fills the slit.

Regarding claim 28, Sanders in view of Rice and Berman results in a joint structure wherein the surface depressions are grooves.

### ***Response to Arguments***

Applicant's arguments filed 9/11/2006 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., there is no gap between the ball portion and socket portion) are not recited in the

rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant's invention also has a gap between the ball and socket portions, as shown in Figures 5A, 6A, 7, for example at 103. There is currently no limitation in applicant's claims that defines over the Sanders combinations. If applicant were to claim some specific clearance between the ball and socket joint (so long as it is not new matter), applicant may be able to rely on that to define over the Sanders combinations. Sanders clearly discloses the general ball and socket joint design that applicant currently claims, that Sanders did not draw the exact same picture as applicant does not mean that the structure is not there in the patent.

In response to applicant's argument that the combination of Rice with Sanders would require modification of Sanders, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Further, there is no specific suggestion in Sanders that teaches away from a combination with Rice, any speculation as to what changes to Sanders may or may not be necessary is outside the scope of debate as to the merits of the applied rejections.

Applicant argues there is no motivation to combine Rice with Sanders, Examiner notes Rice column 2 lines 32-35 which gives motivation for the combination.

Applicant argues that the edge of the socket of Sanders does not enclose the ball portion. Examiner submits that it depends on what is called the "edge", as Figures 1 and 6 clearly show the ball portion to at least partially (as in applicant's invention) enclosed by the edges at for example g.

Applicant argues that Sanders does not show a tab which effectively fills a slit. Examiner disagrees, as tab B clearly fills slit A, perhaps with a clearance, but examiner points out that applicant's invention also discloses a clearance between the tab and slit. Once again the drawn representation Harris can in no way be read to limit his disclosure, but merely as illustrating the concept.

In response to applicant's argument that Harris is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Harris is concerned with a pivot joint which is indexable to and capable of holding user selected positions.

### ***Conclusion***

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Mills whose telephone number is 571-272-8115. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DJM  
11/24/2006



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